

## **The Guardian Initiative of Northwest Ohio**

By Terry Russell, Executive Director, NAMI-Ohio

*This is the seventh article in a series about effective dealing with the mentally ill in the criminal justice system. Justice Evelyn Lundberg Stratton, Supreme Court of Ohio, has had a longtime interest in developing solutions to this problem and has formed the Supreme Court of Ohio Advisory Committee on Mentally Ill in the Courts for that purpose. This article highlights the Guardianship Initiative of Northwest Ohio.*

The Guardian Initiative of Northwest Ohio is a program of rescue and recovery for persons with mental illness who, at times, due to their illness, are not able to exercise good judgment and are not competent to make other decisions.

The Guardian Initiative educates the community on all aspects of the use of guardianships for the care of persons with severe mental illness who have become so impaired by their illness that they are unable to make appropriate decisions for their own care. The Initiative helps identify family members and others in the community who will act as guardians, and, in some cases, the Initiative employee steps forward to serve as guardian.

Under guardianship, a coherent and structured plan of treatment can be put into place for the ill person, providing stability that reduces institutionalization, both in the psychiatric system and the criminal justice system. Guardianship dramatically improves the quality of life for a person who is struggling with decision-making due to their mental illness.

Guardianship is not for everyone, but in the four level model for recovery adopted by the Ohio Department of Mental Health the first level – Dependent/Unaware – best describes those persons for whom guardianship is most appropriate. At this level of recovery, there is a constellation of factors that hinder a person from moving forward with their recovery:

- Inability to identify personal needs
- Non-acceptance of diagnosis
- Unaware of effect illness has on decision-making
- Resisting assistance and being angry
- Not taking medications
- Denial
- Being in crisis
- Loss of contact with peers
- Feeling withdrawn and avoiding contact with others
- Unaware of relationship between employment and well-being
- Not educated about illness

NAMI Ohio is well aware of the controversial nature of guardianship, because it involves limiting or taking away personal rights from a person. NAMI Ohio is very sensitive to this issue, and therefore views guardianship as a recourse of last resort when all else has failed and when the potential harm to the ill person without guardianship intervention far outweighs the impairment of personal rights with intervention. Neither is it NAMI Ohio's intention with the Guardianship Initiative to alter the laws regarding guardianship. One goal of the Initiative is to educate people about the laws and procedures already in place that they may be accessed more readily when appropriate.

The Guardianship statute provides many procedural safeguards for persons for whom a guardianship is proposed on the grounds of in competency:

- A hearing
- A determination based on "clear and convincing evidence"
- An opportunity to show that less restrictive alternatives exist
- The right to independent counsel, and if indigent, to appointed counsel
- The right to present expert independent evaluations
- The right to appeal and representation

The court retains full supervision over guardians:

- A guardian must file a written account with the court annually as to the income and expenses of the person in the guardian's care
- Reports must also be filed annually concerning the status of the person with the illness and whether there is a continued need for guardianship
- If a guardian to timely file a report, inventory or accounting, the court may require a guardian to appear in court, and may fine or remove the guardian, or reduce any guardian's fee
- To determine if a guardianship is functioning properly, the court may order an investigation by a court investigator, law enforcement agency, Adult Protective Service, or other county agency
- The guardian must first obtain approval of the Probate Court before entering into contracts or leases, making improvements to real estate, selling assets, or settling any personal injury claim
- The court may at any time in the best interests of the person with the mental illness, remove the guardian

As can be seen, NAMI Ohio's Guardianship Initiative of Northwest Ohio does not alter the law in any manner whatsoever. Rather, it seeks to educate consumers, family members, and the community about the nature and availability of guardianship. The Guardianship Initiative has already had a dramatic impact on the lives of persons with serious mental illness. Lives have been changed, lives have been saved, through the timely appointment of guardians through the Initiative.

**Editor's Note:** For more information about NAMI Ohio's Guardianship Initiative of Northwest Ohio, please contact Judith A. Baumle, Administrator

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